IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

Crl.Rev.Pet.No. 691 of 2006()

CC.604/2002 of JUDL.MAGISTRATE OF FIRST CLASS-I, HOSDRUG

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REVN. PETITIONER/ACCUSED:

MUHAMMAD SHUMSEER, S/O.ABDULKHADER,
MATTAMMAL HOUSE, ILAMBACHIL, THRIKKARIPPUR,
HOSDURG TALUK.

BY ADV. SRI.SURESH KUMAR KODOTH

RESPONDENT/ COMPLAINANT:

STATE OF KERALA, REPRESENTED BY THE
STATION HOUSE OFFICER, CHANDERA POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No. 691 of 2006

Dated this the 21st day of February, 2007

ORDER

Revision petitioner who is the accused in C.C. 604/2002 with respect to the offence under Section 12(1) (b) and (d) of the Indian Passport Act, 1967, has sought for setting aside the order of the JFCM in rejecting his contention that the prosecution is not maintainable as the same is not supported by previous sanction as required by Section 15 of the Passport Act.

2. I find that the court below has not considered the provision in this regard and just dismissed the application granting time to the prosecution to obtain sanction. I find that Section 15 of the Passport Act contemplates previous sanction for institution of the prosecution. Hence, it appears that the finding of the court below in this regard is contrary to the statutory provision. In the circumstances, the order of the court below is set aside. The prosecution instituted as such without obtaining the previous sanction cannot be sustained. The

accused is ordered to be discharged.

The Criminal Revision Petition is allowed.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.899 of 2001

ORDER

15th February, 2007